

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NORTH DAKOTA

IN THE MATTER OF THE SEARCH OF
INFORMATION ASSOCIATED WITH
FACEBOOK ACCOUNT **1370535136**
THAT IS STORED AT PREMISES
CONTROLLED BY META PLATFORMS,
INC.

Case No.

3:24-mj-722

Filed Under Seal

**AFFIDAVIT IN SUPPORT OF
AN APPLICATION FOR A SEARCH WARRANT**

I, Jeffrey Meyer being first duly sworn, hereby depose and state as follows:

INTRODUCTION AND AGENT BACKGROUND

1. I make this affidavit in support of an application for a search warrant for information associated with a certain Facebook account that is stored at premises owned, maintained, controlled, or operated by Meta Platforms, Inc. ("Meta"), a company headquartered at 1 Meta Way, Menlo Park, California. The information to be searched is described in the following paragraphs and in Attachment A. This affidavit is made in support of an application for a search warrant under 18 U.S.C. § 2703(c)(1)(A) to require Meta to disclose to the government copies of the information (including geolocation information) further described in Section I of Attachment B. Upon receipt of the information described in Section I of Attachment B, government-authorized persons will review that information to locate the items described in Section II of Attachment B.

2. I am a Deputy United States Marshal with the United States Marshals Service and have been since 2017. I am currently assigned to the USMS High Plains Fugitive Task Force (HPFTF), which investigates the current location of federal and state fugitives from justice for the purpose of taking them into custody. Your Applicant has, in the course of his duties, investigated the location of hundreds of fugitives from justice and has successfully taken most of

them into custody. Additionally, I have investigated offenses committed against the United States, including but not limited to, violations of 18 U.S.C. 1001, False Statements.

3. The facts in this affidavit come from my personal observations, my training and experience, and information obtained from other agents, witnesses, and information published by Meta. This affidavit is intended to show merely that there is sufficient probable cause for the requested warrant and does not set forth all of my knowledge about this matter.

4. Based on the facts set forth in this affidavit, there is probable cause to believe that violations of 18 U.S.C. § 1001 have been committed, are being committed, and will be committed by Thomas Cushman and unknown persons. There is also probable cause to believe that the location information described in Attachment B will constitute evidence of these criminal violations and will lead to the identification of individuals who are engaged in the commission of these offenses.

5. Based on the facts set forth in this affidavit, there is probable cause to believe that Thomas Cushman (hereafter referred to as CUSHMAN) has violated 18 U.S.C. § 3142. CUSHMAN was charged in the District of North Dakota with Conspiracy to Possess With Intent to Distribute and Distribution of Controlled Substances on June 06, 2024. An arrest warrant was issued the same day. CUSHMAN was subsequently arrested on this this warrant on June 14, 2024 and released on personal recognizance bond.

6. While on Pre-trial release, CUSHMAN was alleged to have violated his conditions of release, and a federal arrest warrant was issued out of the District of North Dakota for these alleged violations on September 17, 2024. On October 08, 2024 the above-mentioned warrant was quashed as CUSHMAN agreed to enter the New Life Treatment Center.

CUSHMAN, through his attorney, submitted documents to his United States Probation and Pre-

trial Services Officer, Christine Argall, that USPO Argall believed to show CUSHMAN was accepted for admittance to their facility for inpatient treatment.

7. These documents have since been proven to be false and the New Life Treatment Center has confirmed CUSHMAN has never been a patient at their facility. An federal arrest warrant was issued in the District of North Dakota on October 17, 2024, alleging violations of his pre-trial release conditions. There is also probable cause to believe that CUSHMAN is aware of these charges and is taking steps to avoid his arrest. There is also probable cause to believe that the location information described in Attachment B will assist law enforcement in arresting CUSHMAN, who is a “person to be arrested” within the meaning of Federal Rule of Criminal Procedure 41(c)(4).

JURISDICTION

8. This Court has jurisdiction to issue the requested warrant because it is “a court of competent jurisdiction” as defined by 18 U.S.C. § 2711. 18 U.S.C. § 2703(c)(1)(A). Specifically, the Court is “a district court of the United States . . . that has jurisdiction over the offense being investigated.” 18 U.S.C. § 2711(3)(A)(i).

BACKGROUND CONCERNING FACEBOOK¹

9. Meta is a United States company that owns and operates Facebook, a social media platform, and is a provider of electronic communications services and remote computing services

¹ The information in this section is based on my training and experience, and on information published by Meta on its Facebook website, including, but not limited to, the following webpages: <https://www.facebook.com/privacy/policy> (“Privacy Policy”); <https://www.facebook.com/about/basics/manage-your-privacy/location> (“Location”);

as defined by 18 U.S.C. §§ 2711(2) and 3127(1). Users can access Facebook and register for an account, like the target account listed in Attachment A, via its website (facebook.com) or via its mobile applications (Facebook and Messenger). Each Facebook account is assigned a unique user ID number and may also be associated with a unique user-created username. Users can periodically change their usernames but no two users can have the same username at the same time.

10. Facebook users can create, view, share, and interact with news, images, videos, and other information and can communicate in real-time with other users through text, voice, and video messaging. Accounts can also be used for event planning, buying and selling items, payments, gaming, fundraising, and to interact with groups, businesses, and other online platforms.

11. Meta uses information about the location of its Facebook users for business purposes and to enhance the functionality of its platform, such as to personalize and target advertisements, display local news stories, suggest nearby events, and detect suspicious account activity. Location determinations are informed by connection records, device-based data, and user-generated information. Examples of data used by Meta to determine a user's location include IP addresses, Global Position System ("GPS") data, "check-ins," and event responses. Meta also uses this data to estimate the city or town where the user is situated, which Meta refers to as the user's "Primary Location."

<https://www.facebook.com/help/278928889350358> ("How Location Settings Work"); and <https://www.facebook.com/help> ("Help Center").

12. Meta collects geolocation data, which it refers to as “precise location information,” from a user’s device if each of the following conditions are met. First, the Facebook mobile application must be installed on the device. Second, a user of that device must have granted “permission” through the device’s operating system for the mobile application to receive and transmit location data to Meta. Third, a user of that device must have enabled “location services” through the device’s operating system. Fourth, the mobile application must be logged into a Facebook account and, if required by the permission or other settings, be in active use.

13. This proposed search warrant seeks the historical and prospective production of geolocation information collected and retained by Facebook in the normal course of business. Meta produces geolocation data to law enforcement as datapoints consisting of a latitude, longitude, and timestamp. According to Meta, it retains only one such datapoint for an account, with each subsequent datapoint replacing the prior. Based on my training and experience, I know that Meta can produce that stored datapoint, which it refers to as “Last Location,” and it can also produce subsequent datapoints on a rolling basis.

PROBABLE CAUSE

14. The United States, including the United States Marshals Service is conducting a criminal investigation of Thomas Cushman and subjects yet to be identified regarding possible violations of 18 U.S.C. § 1001 and a fugitive investigation pursuant to a federal arrest warrant for CUSHMAN issued in the District of North Dakota on October 17, 2024.

15. On October 21, 2024, your affiant sent a collateral lead to both the Eastern District of California, where CUSHMAN’s known residence is located, and the Central District

of California, where CUSHMAN was supposed to be attending treatment at New Life Treatment Center.

16. On October 23, 2024, your affiant was notified by Deputy United States Marshal (DUSM) Alfredo Castillo, with the Central District of California, that CUSHMAN was not currently enrolled in treatment at New Life Treatment Center, nor has he ever been a patient there. CUSHMAN had submitted paperwork to USPO Argall, which she believed to be legitimate documents. These documents were used by USPO Argall to request CUSHMAN's pretrial release warrant be quashed by the District of North Dakota District Court.

17. On October 24, 2024, DUSM Cameron Langland, with the Eastern District of California was made aware of numerous calls for service in which both CUSHMAN and his estranged wife have made accusations, against each other, involving the pointing of firearms at one another. Members of the E/CA office have attempted to surveil CUSHMAN's residence multiple times, but have not seen CUSHMAN or his wife. Their residence is in a remote location, well off any main roads and is gated with the residence set back off the property line, making surveillance difficult.

18. During the course of the investigation, your affiant located a Meta Platforms, Inc. account under the name "Tom Cushman" and found it to contain pictures depicting CUSHMAN. The account includes posted public activity as recently as 10/01/2024 and as far back as 12/02/2023, which encompasses the timeframe of his submission of fraudulent documents and his continued flight. The web address of the profile is <https://www.facebook.com/Thomascushman99> and at the time of requesting this search warrant appears to still be active.

AUTHORIZATION REQUEST

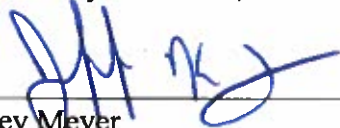
19. Based on the forgoing, I request that the Court issue the proposed search warrant.

20. I further request that the Court authorize execution of the warrant at any time of day or night, owing to the potential need to locate the user of the account outside of daytime hours.

REQUEST FOR SEALING

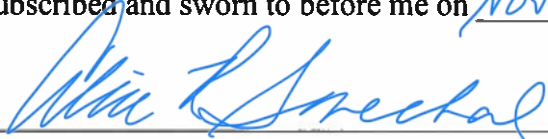
21. I further request that the Court order that all papers in support of this application, including the affidavit and search warrant, be sealed until further order of the Court. These documents discuss an ongoing criminal investigation that is neither public nor known to all of the targets of the investigation. Accordingly, there is good cause to seal these documents because their premature disclosure may give targets an opportunity to flee/continue flight from prosecution, destroy or tamper with evidence, change patterns of behavior, notify confederates, or otherwise seriously jeopardize the investigation.

Respectfully submitted,



Jeffrey Meyer
Deputy United States Marshal
United States Marshals Service

Subscribed and sworn to before me on November 12, 2024



Honorable Alice R. Senechal
UNITED STATES MAGISTRATE JUDGE